

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA, and
STATE OF NEW MEXICO, *ex rel.*

SALLY HANSEN,

Plaintiff,

v.

CV 11-0566 WPL/CG

DEMING HOSPITAL CORPORATION
d/b/a MIMBRES MEMORIAL HOSPITAL,
COMMUNITY HEALTH SYSTEMS, INC.,
COMMUNITY HEALTH SYSTEMS
PROFESSIONAL SERVICES CORPORATION,
and JERRY BESSELL,

Defendants.

**ORDER DENYING AS MOOT DEFENDANTS' MOTIONS TO DISMISS
AND MOTION FOR JOINDER**

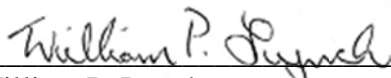
Relator Sally Hansen brought her original complaint in this *qui tam* action against Defendants pursuant to the False Claims Act, 31 U.S.C. § 3729 *et seq.*, the New Mexico Medicaid False Claims Act, N.M. STAT. ANN. § 27-14-1 *et seq.*, and the New Mexico Fraud Against Taxpayers Act, N.M. STAT. ANN. § 44-9-1 *et seq.* (Doc. 1.) The United States and the State of New Mexico declined to intervene (Doc. 20; Doc. 21), and Judge Carmen E. Garza ordered that the complaint in this action be unsealed and served upon the Defendants (Doc. 22). Judge Garza's Order required that any motion to amend or any other effort to file claims under the *qui tam* provisions of the False Claims Act or Fraud Against Taxpayers Act be done under seal, pursuant to 31 U.S.C. § 3730(b) and N.M. STAT. ANN. § 44-9-5(B), so that both the United

States and the State of New Mexico would have the opportunity to investigate and determine whether to intervene with respect to any such amended complaint or other claim. (*Id.* at 2.)

Defendants timely filed motions to dismiss under Federal Rule of Civil Procedure 12(b) on January 18, 2013. (Doc. 42; Doc. 44; *see also* Doc. 47.) Hansen's First Amended Complaint (Doc. 50) was filed under seal fourteen days later, on February 1, 2013. *See* FED. R. CIV. P. 15(a)(1)(B) (allowing for amendment of complaints as a matter of course within twenty-one days of service of a motion under Rule 12(b)). After the United States and the State of New Mexico again declined to intervene with respect to Hansen's First Amended Complaint (Doc. 55; Doc. 56), I ordered that the amended complaint be unsealed and served on Defendants (Doc. 58).

Defendants' motions to dismiss are responsive to Hansen's original complaint. As the amended complaint has superseded the original and contains new factual allegations that may address the defenses underlying Defendants' motions to dismiss, those motions have become moot. Accordingly, Defendants' motions to dismiss (Docs. 42, 44) are denied as moot, and Defendant Community Health Systems, Inc.'s motion to join in the other Defendants' motion to dismiss (Doc. 47) is denied as moot.

IT IS SO ORDERED.



William P. Lynch
United States Magistrate Judge

A true copy of this order was served on the date of entry--via mail or electronic means--to counsel of record and any pro se party as they are shown on the Court's docket.